

Jean E. Faure
Katie R. Ranta
Faure Holden Attorneys at Law, P.C.
1314 Central Avenue
P.O. Box 2466
Great Falls, MT 59403
Phone: 406-452-6500
Fax: 406-452-6503
jfaure@faureholden.com
kranta@faureholden.com
*Attorneys for Loenbro Pipeline, LLC
and Roosevelt Cedeno-Zambrano*

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

MARINA N. TODD, individually and as
representative of the ESTATE OF CORON
DAVON TODD, deceased and as legal
guardian of J.L.T., a minor child,

Plaintiffs,

v.

LOENBRO PIPLINE, LLC; ROOSEVELT
R. CEDENO-ZAMBRANO, and Jane Doe
Cedeno-Zambrano, as husband and wife,
and the marital community thereof and
JOHN/JANE DOE individuals or entities
1-4,

Defendants.

Cause No. _____

NOTICE OF REMOVAL

Defendants Loenbro Pipeline, LLC (Loenbro) and Roosevelt R. Cedeno-Zambrano (Cedeno-Zambrano), by and through their counsel of record, Faure Holden Attorneys at Law, PC, respectfully submit this Notice of Removal. This

Notice of Removal is made without waiving Defendants' right to challenge personal jurisdiction or any other statutory or common law right or defense.

Wabash Western Railway v. Brow, 164 U.S. 271, 278-280 (1896).

This Court has original jurisdiction over this case pursuant to 28 U.S.C. § 1332 because Plaintiffs are citizens of North Dakota, Loenbro is a citizen of Delaware, and Cedeno-Zambrano is a citizen of Colorado. Accordingly, pursuant to 28 U.S.C. §§ 1441 and 1446, Loenbro and Cedeno-Zambrano file this Notice of Removal of the above-captioned action from the Montana Eighth Judicial District Court, Cascade County, where it is now pending, to the United States District Court for the District of Montana, Great Falls Division.

FACTUAL BACKGROUND

1. Coron Devon Todd died in Converse County, Wyoming on January 10, 2019. Exhibit 1, ¶ 9.
2. Coron Devon Todd was a resident of North Dakota at the time of his death.
3. On June 16, 2020, Plaintiff Marina Todd filed a Petition for Appointment of Wrongful Death Representative in the Eighth Judicial District Court, Converse County, Wyoming, and her Petition was granted on June 17, 2020.
4. Plaintiffs filed an Amended Complaint on January 26, 2021 in the

Montana Eighth Judicial District Court, Cascade County, designated as *Marina N.*

Todd, et al. v. Loenbro Pipeline, LLC, et al., Cause No. ADV-21-12. Exhibit 1.

5. None of the events giving rise to the claims in the Amended Complaint occurred in the State of Montana. The accident occurred in Wyoming, and Wyoming law should apply.

6. Loenbro and Cedeno-Zambrano received a copy of the Notice of Lawsuit and Request for Waiver of Service and Complaint on March 24, 2021, beginning the 30-day removal period pursuant to 28 U.S.C. § 1446(b)(1). *Murphy Bros. v. Michetti Pipe Stringing*, 526 U.S. 344 (1999). A copy of the Notice of Lawsuit and Request for Waiver of Service is attached hereto as Exhibit 2.

7. By the Amended Complaint, Plaintiffs seek damages for the death of Coron Devon Todd, and assert claims of Negligence, Vicarious Liability, Wrongful Death, and Survival, along with Punitive Damages. Exhibit 1.

8. Plaintiffs are North Dakota citizens residing in Bismarck, North Dakota. Exhibit 1, ¶ 9.

9. Defendant Loenbro Pipeline, LLC is citizen of the State of Delaware.

10. Loenbro Pipeline, LLC's sole member is Loenbro, LLC, a Delaware limited liability company.

11. Loenbro, LLC's sole member is Tailwind Loenbro, LLC, a Delaware limited liability company.

12. Tailwind Loenbro, LLC’s sole member is Tailwind Loenbro Intermediate Holdings, LLC, a Delaware limited liability company.

13. Tailwind Loenbro Intermediate Holdings, LLC’s sole member is Tailwind Loenbro Holdings, Inc., a Delaware corporation.

14. Defendant Roosevelt R. Cedeno-Zambrano is a Colorado citizen, residing in Colorado Springs, Colorado. Exhibit 1, ¶ 3.

15. Defendants John(s) and Jane(s) Doe are unknown individuals or entities and their citizenship is unknown. *Id.*, ¶ 4.

LEGAL ANALYSIS

A. Applicable Legal Standards

16. A civil case brought in a state court may be removed by a defendant to federal court if it could have been brought there originally. 28 U.S.C. § 1441(a).

17. A federal district court has original “diversity” jurisdiction when the suit is between citizens of different states and the amount in controversy exceeds \$75,000.00, exclusive of costs and interest. 28 U.S.C. § 1332(a).

18. “A limited liability company ‘is a citizen of every state of which its owners/members are citizens,’ not the state in which it was formed or does business.” *NewGen, LLC v. Safe Cig, LLC*, 840 F.3d 606, 612 (9th Cir. 2016) quoting *Johnson v. Columbia Properties Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006).); see also *Durbin v. Welcov Healthcare, LLC*, 2018 U.S. Dist. LEXIS

173701, 2018 WL 4898578 (D. Mont., Oct. 18, 2018).

19. “In determining whether a civil action is removable on the basis of the jurisdiction under section 1332(a) of this title, the citizenship of defendants sued under fictitious names shall be disregarded.” 28 U.S.C. § 1441(b)(1).

B. The Parties Are Citizens Of Different States

20. Plaintiffs are citizens of the State of North Dakota.

21. Loenbro Pipeline, LLC is a citizen of the State of Delaware.

22. Defendant Roosevelt R. Cedeno-Zambrano is a citizen of the State of Colorado.

21. Defendants John(s) and Jane(s) Doe are unknown individuals or entities and their citizenship is disregarded for purposes of removal. 28 U.S.C. § 1441(b)(1).

C. The Amount In Controversy Exceeds \$75,000.00

23. Plaintiffs seek to recover damages for the death of Coron Devon Todd, including for the loss of his life, his injuries, medical bills, funeral expenses, pain and suffering, and the present value of his compensation and benefits he would have earned during his expected lifetime, and for which they have demanded \$1,000,000.

22. In addition to these damages, the Amended Complaint seeks punitive damages. *Id.*, ¶¶ 45-48.

D. Loenbro Has Met The Procedural Requirements For Removal

23. True and correct copies of the Notice of Lawsuit and Request for Waiver of Service and Amended Complaint filed in the Montana Eighth Judicial District Court, Cascade County, are attached to this Notice of Removal as Exhibit 1 and 2.

24. The Montana Eighth Judicial District Court, Cascade County, in which this action was commenced, is within this Court's district and division. L.R. 1.2(3).

25. This Notice of Removal is filed within 30 days of Loenbro's and Cedeno-Zambrano's receipt of the Amended Complaint by service or otherwise, setting forth the claim for relief upon which this action is based and upon which it could first be ascertained that this case is removable, and is timely filed pursuant to 28 U.S.C. § 1446.

26. Loenbro and Cedeno-Zambrano preserves all other bases for removal of this action to this Court.

27. A Notice of Filing of this Notice of Removal will be filed with the Montana Eighth Judicial District Court, Cascade County, and a copy of this Notice of Removal will be served upon Plaintiffs' counsel.

WHEREFORE, Loenbro and Cedeno-Zambrano hereby remove the above-described action now pending in the Montana Eighth Judicial District Court,

Cascade County, to the United States District Court for the District of Montana,
Great Falls Division.

DATED this 14th day of April, 2021.

FAURE HOLDEN ATTORNEYS AT LAW, P.C.

/s/ Katie R. Ranta

Katie R. Ranta

CERTIFICATE OF SERVICE

This is to certify that the foregoing was duly served upon the following by the means designated below on the 14th day of April, 2021.

Robert T. Bell Lance P. Jasper REEP, BELL & JASPER, P.C. P.O. Box 16960 Missoula, MT 59808-6960 bell@westernmontanalaw.com jasper@westernmontanalaw.com <i>Attorneys for Plaintiffs</i>	<input checked="" type="checkbox"/> CM/ECF <input checked="" type="checkbox"/> U. S. Mail <input type="checkbox"/> Federal Express <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail
William Gilbert Gilbert Law Firm, P.S. 421 W. Riverside Ave., Suite 353 Spokane, WA 99201 bill@wagilbert.com <i>Attorneys for Plaintiffs</i>	<input type="checkbox"/> CM/ECF <input checked="" type="checkbox"/> U. S. Mail <input type="checkbox"/> Federal Express <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail
Tina Henry Clerk of District Court Cascade County Courthouse 415 2 nd Ave. N., Suite 200A Great Falls, MT 59401	<input type="checkbox"/> CM/ECF <input checked="" type="checkbox"/> U. S. Mail <input type="checkbox"/> Federal Express <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail

/s/ Katie R. Ranta

Katie R. Ranta